

§ 39.7

38 CFR Ch. I (7–1–10 Edition)

other supporting documentation, as needed).

(4) A design concept describing the major features of the project including the number and types of gravesites, such as columbarium niches.

(5) Any comments or recommendations made by the State's "Single Point of Contact" reviewing agency.

(c) In addition, the State must submit written assurance that:

(1) Any cemetery established, expanded, or improved through a grant will be used exclusively for the interment or memorialization of eligible persons, as set forth in §§ 39.2(h) and 39.5(a), whose interment or memorialization is not contrary to the conditions of the grant (see §§ 39.5(d) and 38 U.S.C. 2408 and 2411).

(2) Title to the site is or will be vested solely in the State.

(3) It possesses legal authority to apply for the grant, and to finance and construct the proposed facilities; *i.e.*, legislation or similar action has been duly adopted or passed as an official act of the applicant's governing body, authorizing the filing of the application, including all understandings and assurances contained therein, and directing and authorizing the person identified as the official representative of the State to act in connection with the application and to provide such additional information as may be required.

(4) Any cemetery established, expanded, or improved through a grant will be maintained and operated in accordance with the operational standards and measures of the National Cemetery Administration.

(5) It will assist VA in assuring that the grant complies with section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), Executive Order 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 469a–1 *et seq.*).

(6) It will obtain approval by VA of the final construction drawings and specifications before the project is advertised or placed on the market for bidding; it will construct the project, or cause it to be constructed, to completion in accordance with the applica-

tion and approved plans and specifications; it will submit to the Director of the State Cemetery Grants Service, for prior approval, changes that alter the costs of the project, use of space, or functional layout; and it will not enter into a construction contract(s) for the project or undertake other activities until the conditions of the grant program have been met.

(7) It will comply with the Federal requirements in 2 CFR parts 180 and 801 and 38 CFR part 43 and submit Standard Form 424D ("Assurances—Construction Programs").

(8) It will prepare an Environmental Assessment to determine whether an Environmental Impact Statement is necessary, and certify that funds are available to finance any costs related to preparation of the Environmental Assessment.

(d) The State must submit a copy of the legislation, as enacted into law, authorizing the establishment, maintenance and operation of the facility as a veterans' cemetery in accordance with 38 CFR 39.5(a).

(e) Upon receipt of a preapplication for a grant, including all necessary assurances and all required supporting documentation, VA shall determine whether the preapplication conforms to all requirements listed in paragraphs (a) through (d) of this section, including whether it contains sufficient information necessary to establish the project's priority. VA will notify the State of any nonconformity. If the preapplication does conform, VA shall notify the State that the preapplication has been found to meet the preapplication requirements, and the proposed project will be included in the next scheduled ranking of projects, as indicated in § 39.7(d).

(Authority: 38 U.S.C. 501, 2408, 2411)

(The Office of Management and Budget has approved the information collection requirements in this section under control numbers 0348–0043, 0348–0041; 0348–0042)

[69 FR 16346, Mar. 29, 2004, as amended at 72 FR 30243, May 31, 2007; 73 FR 35353, June 23, 2008]

§ 39.7 Priority list.

(a) The priority groups, with Priority Group 1 having the highest priority

Department of Veterans Affairs

§ 39.8

and Priority Group 4 the lowest priority, are:

(1) Priority Group 1—Projects needed to avoid disruption in burial service that would otherwise occur at existing veterans' cemeteries within 4 years of the date of the preapplication. Such projects would include expansion projects as well as improvement projects (such as construction of additional or replacement facilities) when such improvements are required to continue interment operations.

(2) Priority Group 2—Projects for the establishment of new veterans' cemeteries.

(3) Priority Group 3—Expansion projects at existing veterans' cemeteries when a disruption in burial service due to the exhaustion of existing gravesites is not expected to occur within 4 years of the date of the preapplication.

(4) Priority Group 4—Other improvement projects to cemetery infrastructure such as building expansion and upgrades to roads and irrigation systems that are not directly related to the development of new gravesites.

(b) Within Priority Groups 1, 2, and 3, highest priority will be given to projects in geographical locations with the greatest number of veterans who will benefit from the project as determined by VA. This prioritization system, based on veteran population data, will assist VA in maintaining and improving access to burial in a veterans cemetery to more veterans and their eligible family members. Within Priority Group 1, at the discretion of VA, higher priority may be given to a project that must be funded that fiscal year to avoid disruption in burial service.

(c) Within Priority Group 4, projects will be ranked in priority order based upon VA's determination of the relative importance and necessity to operations of the proposed improvements.

(d) By August 15 of each year, VA will make a list prioritizing the preapplications that were received on or before July 1 of that year and that were approved under § 39.6, ranking them in their order of priority for funding during the fiscal year that begins the following October 1.

Preapplications from previous years will be re-prioritized each year.

(Authority: 38 U.S.C. 501, 2408)

§ 39.8 Plan preparation.

The State must prepare plans and specifications in accordance with the requirements of this section for review by the SCGS. The plans and specifications must be approved by the SCGS prior to the State's solicitation for construction bids. Once SCGS grants approval, the State must obtain construction bids and determine the successful bidder prior to submission of the application. The State must establish procedures for determining that costs are reasonable, necessary and allocable in accordance with the provisions of Office of Management and Budget (OMB) Circular No. A-87. Once the preapplication and the project's plans and specifications have been approved, an application for assistance must be submitted in compliance with the uniform requirements for grants-in-aid to State and local governments prescribed by Office of Management and Budget Circular No. A-102, Revised.

(a) *General.* These requirements have been established for the guidance of the State agency and the design team to provide a standard for preparation of drawings, specifications and estimates.

(b) *Technical requirements.* The State should meet these technical requirements as soon as possible after VA approves the preapplication.

(1) *Boundary and site survey.* The State agency shall provide a survey of the site and furnish a legal description of the site. A boundary and site survey need not be submitted if one was submitted for a previously approved project and there have been no changes. Relevant information may then be shown on the site plan. If required, the survey shall show:

(i) The outline and location referenced to boundaries, of all existing buildings, streets, alleys (whether public or private), block boundaries, easements, encroachments, the names of streets, railroads and streams, and other information as specified. If there is nothing of this character affecting the property, the Surveyor shall so state on the drawings.